

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

WALTER ARCHER

PLAINTIFF

vs.

NO. 5:07CV00237 BSM

SCOTT HORNADAY, ET AL.

DEFENDANT

ORDER

Pending before the court is defendants' motion to dismiss. On July 28, 2008, the court granted defendants' motion to compel and directed plaintiff to respond to defendants' discovery requests within fifteen days. The court warned plaintiff that if he did not comply with the order, the court may dismiss the complaint.

Defendants seek dismissal of the plaintiff's case and argue that plaintiff has not only failed to respond to the discovery requests but has also failed to submit a witness and exhibit list as required by the court's scheduling order. The court is mindful that the plaintiff is proceeding *pro se* and on August 5, 2008, plaintiff mailed a letter to the court outlining his claim. The court does not have copies of the defendants' discovery requests and therefore accepts the letter as an attempt to respond to the discovery requests. Further, the court is not persuaded that plaintiff's failure submit a witness and exhibit list warrants dismissal. Rather, the plaintiff is permitted to proceed with his lawsuit, but he is precluded from calling any witnesses other than himself and he is precluded from introducing any exhibits into evidence. Therefore, the plaintiff's own testimony is the only evidence that he is permitted to introduce into evidence at his September 3, 2008

trial.

Accordingly, the motion to dismiss (Doc. No. 47) is denied.

IT IS SO ORDERED this 25th day of August, 2008.

Brian S. Miller
UNITED STATES DISTRICT JUDGE